

# UNITED STATES DISTRICT COURT

for the

Middle District of Tennessee

Nashville Division

Case No. \_\_\_\_\_

(to be filled in by the Clerk's Office)

Dustin Faeder and Amy Beth Cooter Faeder,  
On Behalf of their Daughter, JLF

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.  
If the names of all the plaintiffs cannot fit in the space above,  
please write "see attached" in the space and attach an additional  
page with the full list of names.)

-v-

Nashville Collegiate Prep  
Noble Education Initiative  
Rethink Forward &  
Tennessee State Board of Education

Defendant(s)

(Write the full name of each defendant who is being sued. If the  
names of all the defendants cannot fit in the space above, please  
write "see attached" in the space and attach an additional page  
with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☐ Yes ☒ No

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

### NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Dustin and Amy Faeder, on Behalf of JLF		
Address	5636 Clovermeade Drive		
	Brentwood	TN	37027
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Davidson		
Telephone Number	615-975-8624 (Dustin) & 615-926-6731 (Amy)		
E-Mail Address	dustin.faeder@gmail.com & amyfaeder@gmail.com		

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

## Defendant No. 1

Name	Nashville Collegiate Prep (NCP)		
Job or Title <i>(if known)</i>	Public School		
Address	1638 Bell Road		
	Nashville	Tennessee	37211
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Davidson		
Telephone Number	615-747-6059		
E-Mail Address <i>(if known)</i>	info@nashvillecollegiate.org		
<input type="checkbox"/> Individual capacity <input type="checkbox"/> Official capacity			

## Defendant No. 2

Name	Noble Education Initiative		
Job or Title <i>(if known)</i>	Parent Corporation of NCP		
Address	600 Corporate Drive, Suite 105		
	Fort Lauderdale	FL	33334
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Broward		
Telephone Number	954-519-4000		

E-Mail Address (*if known*)

info@nobleeducationinitiative.com

☐ Individual capacity ☐ Official capacity

## Defendant No. 3

Name

Tennessee State Board of Education

Job or Title (*if known*)

Government Educational Agency

Address

500 James Robertson Parkway

Nashville

TN

37243

City

State

Zip Code

County

Davidson

Telephone Number

615-741-2966

E-Mail Address (*if known*)

sara.morrison@tn.gov (Executive Director's Email)

☐ Individual capacity ☐ Official capacity

## Defendant No. 4

Name

ReThink Forward

Job or Title (*if known*)

NCP's Governing Board

Address

1831 12<sup>th</sup> Avenue South, Suite 188

Nashville

TN

37203

City

State

Zip Code

County

Davidson

Telephone Number

833-738-4165

E-Mail Address (*if known*)

rtinfo@rethinkforward.org

☐ Individual capacity ☐ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The Establishment Clause of the 1<sup>st</sup> Amendment to the United States Constitution grants our daughter the right to be free from government endorsement of religion in her public school.

- C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia," 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The defendants, which are all state and educational organizations, have jointly and mutually decided to post "IN GOD \*WE\* TRUST" in JLF's school entryway to be in compliance with Tennessee's National Motto in the Classroom Act. Upon requesting removal or modification with NCP's administration, we were variously routed to Noble Education Initiative (NCP's Parent Corporation), ReThink Forward (NCP's Governing Board), and the TN Public Charter School Commission (which is part of the TN State Board of Education).

### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Nashville Collegiate Prep (NCP)  
1638 Bell Road, Nashville, TN 37211

- B. What date and approximate time did the events giving rise to your claim(s) occur?

8/10/21 at 8:00 am. (the opening day of the 2021-2 public schoolyear in Davidson County), presumably continuing through the present.

- C. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

NCP, a public school, has a large, framed poster hanging in its entryway stating "IN GOD \*WE\* TRUST" with no accompanying educational or statutory references. This bare statement is not even identified as the national motto of the United States. This is how NCP has chosen to comply with Tennessee's National Motto in the Classroom Act (TCA §49-6-2502), which reads as follows:

- (a) Beginning in the 2018-2019 school year, an LEA shall require all schools within the LEA to display the national motto of the United States, "In God We Trust," in a prominent location in each school.
- (b) The display required in subsection (a) may take the form of, but is not limited to, a mounted plaque or student artwork.
- (c) For purposes of this section, "prominent location" means a school entry way, cafeteria, or common area where students are likely to see the national motto display.

Our family is nonreligious. Our daughter, JLF, is required by law to attend school. 8/10/21 was her first day of kindergarten. This blatantly religious message violates her religious freedom as guaranteed by the Establishment Clause.

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#### **IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

No Physical Injuries

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#### **V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

We assert both a Facial Challenge to TCA §49-6-2502 as well as an As-Applied challenge to how NCP has decided to comply with the Act's requirements. As to the Facial Challenge, we request that this Court strike down TCA §49-6-2502 as an unconstitutional violation of the Establishment Clause. We also request an injunction prohibiting any and all Tennessee Governmental Officials, including Law Enforcement Officers, from enforcing TCA §49-6-2502. Regarding the As-Applied challenge, we request an immediate injunction requiring NCP to remove the offending poster from its wall and prohibiting NCP from posting "In God We Trust" or any variant thereof on school grounds in any manner.

Our request for an injunction is supported by the irreparable injury of JLF's religious freedoms being regularly, repeatedly, and ritualistically violated. Each school day, JLF must walk past this overtly religious message to get in and out of school. She is learning to read. The message has the effect of promoting belief in monotheism, which damages her psyche. We teach JLF to form beliefs based on reasons rather than faith. Every day that poster remains on the wall creates the potential for JLF to become indoctrinated with religious belief, to the detriment of her critical thinking. The message is an overt violation of her religious freedom as guaranteed by the Establishment Clause. The poster is disrespectful, discriminatory, divisive, and exclusionary. As JLF's understanding of what the poster signifies grows, it is likely that she will begin to feel that she is not one of the "we" at NCP. That sense of alienation will create a coercive force which, over time, could cause JLF to become monotheistic.

We also request that the defendants pay for any and all expenses we incur from prosecuting this case.

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## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.


### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8/10/21

Signature of Plaintiff

Printed Name of Plaintiff

  
Dustin and Amy Faeder, on behalf of JLF

### B. For Attorneys *NA - we are pro se*

Date of signing: \_\_\_\_\_

Signature of Attorney \_\_\_\_\_

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

*City*

*State*

*Zip Code*

Telephone Number

E-mail Address